

# United States Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
09/682,255 08/09/2001		Luis Esteban Prada	9D-DW-19324	9324 1854	
23465	7590 04/23/2003				
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE			EXAMINER		
			LUGO, CARLOS		
SUITE 2600 ST LOUIS, MO 63102-2740			ART UNIT	PAPER NUMBER	
,			3677		
			DATE MAILED: 04/23/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary  □ The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of This COMMUNICATION.  Between of time may be sivilate used the provisions of 37 CFR 1135(s). In no evert, however, may a mply be timely filed  ## the period for reply specified side is less than bridy (30) days, a reply within the slaticary stricture of thing (30) days with be considered streey.  ## the period for reply specified above is less than bridy (30) days, a reply within the slaticary stricture of thing (30) days with be considered streey.  ## the period for reply specified above is less than bridy (30) days, a reply within the slaticary stricture.  ## the period for reply is specified source is less than bridy (30), days, a reply within the slaticary stricture.  ## the period for reply is specified source is east an above the provision.  ## the period for reply specified above is less than bridy (30), days, a reply within the slaticary stricture.  ## the period for reply specified above is less than bridy (30), days, a reply within the slaticary stricture.  ## the period for reply specified above is less than bridge (30), days, a reply within the slaticary stream of the slaticary stream of the slaticary stream of the slaticary stream of the slaticary stream.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February 2003.  ### Responsive to communication(s) flied on 18 February	·	Application No.	Applicant(s)				
Carlos Lugo  -The MAILING DATE of this communication appears on the cover sheat with the correspondence address → Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  He period to reply specified above is less than this (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If the period to reply specified above is less than this (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If the period to reply specified above, the maximum datarity period will apply within the statutory minimum of thirty (30) days will be considered timely. If the period tray reply section above, the maximum datarity period will apply within the statutory minimum of thirty (30) days will be considered timely. If the period tray is specified above, the maximum datarity period will apply within the statutory minimum of thirty (30) days will be considered timely. If the period is the statutory period above, the maximum day reply within the statutory minimum of thirty (30) days will be considered timely. If the period to reply specified to this communication, and the replication. Any reply received by the Office later than their mortals above the maximum date in the realiting date of this communication, even if limely filed, may various any search and the period of the statutory and the statutory a		09/682,255	PRADA ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Editorian of the map by a savilate under the governous of 3° CFR 1.73(a). In no event, however, may a resty be timely filed  Ethic product for reply appendix above in less than thinty (30) days, a reply within the stitutiony minimum of thinty (00) days will be considered dimely.  If the product for reply appendix above, the maximum dating years will expire 3° MC MONTH'S from the resting date of this communication.  Fairm being within the set or extended precide of regly within the stitutiony minimum of thinty (00) days will be considered dimely.  If the product for reply appendix and the set of regly within the stitution minimum of thinty (00) days will be considered dimely.  If the product for reply appendix and the set of regly within the stitution minimum of thinty (00) days will be considered dimely.  If the product of reply appendix and the set of regly within the stitution will be set of the set of the set of regly and the set of the se	Office Action Summary	Examiner	Art Unit				
Pariod for Reply  A SHORTENDE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION  and SIX (8) MONTHS from the mailing date of his communication.  If the period from syspecified above, the maximum statutory period will apply, and will expire SIX (8) MONTHS from the mailing date of his communication.  If No period for regly is specified above, the maximum statutory period will apply, and will expire SIX (6) MONTHS from the mailing date of his communication.  If No period for regly is specified above, the maximum statutory period will apply, and will expire SIX (6) MONTHS from the mailing date of his communication, even if breatly filed, may reduce any seared patient term adjustment. See 37 GFR 1.704(8).  Status  1) ☑ Responsive to communication(s) filed on 18 February 2003.  2a) ☑ This action is FINAL 2b) ☑ This action is non-final.  3) ☑ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) 1,3-5,7-10 and 13-22 is/are pending in the application.  4a) Of the above claim(s) 2,8,11 and 12 is/are withdrawn from consideration.  5) ☑ Claim(s) 1,3-5,7-10 and 22 is/are allowed.  6) ☑ Claim(s) 1,3-6,7-10 and 22 is/are allowed.  7) ☑ Claim(s) 1,3-6,7-10 and 29 is/are rejected.  7) ☑ Claim(s) 1,3-6,7-10 and 29 is/are coljected to.  8) ☑ Claim(s) 1,3-6,7-10 and 29 is/are coljected to by the Examiner.  10) ☑ The drawing(s) filed on 99 August 2001 is/are: a) ☑ accepted or b) ☑ objected to by the Examiner.  10) ☑ The drawing(s) filed on 99 August 2001 is/are: a) ☑ accepted or b) ☑ disapproved by the Examiner.  17 If proposed drawing correction filed on		_					
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the protocolors of 3 CPR 113(e). In on event, however, may a repty be timely filed after SX (6) MONTHS from the making date of this communication. Protocolors of the protocolors of time and the state of the communication of the protocolors of the proto	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
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	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal I					

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#### **DETAILED ACTION**

1. This Office Action is in response to applicant's letter filed on February 18, 2003.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13-16 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,502,715 to Lundblade.

Regarding claim 21, Lundblade discloses a method to assembly a door, latch providing a handle (29) and a handle retained (58). The handle is connected to the handle retainer.

A keeper (30) is slidably coupled to the handle such that the handle rotates in a first direction and the keeper rotates in a second direction opposite to the first direction.

As to claim 13, Lundblade discloses that the handle includes at least one substantially circular projection (62) to frictionally retain the handle.

As to claim 14, Lundblade discloses that the handle (29) is frictionally connected to the handle retainer (58).

As to claim 15, Lundblade discloses that the handle retainer is a substantially circular projection.

As to claim 16, Lundblade discloses door latch assembly comprising a tub assembly (27 and 31) and a door assembly (26) coupled at a first edge to the tub assembly.

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The latch assembly comprises a handle (29) and a keeper (30). The handle rotates in a first direction and the keeper rotates in a second direction opposite to the first direction.

Applicant is reminded that where there is physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the invention over the prior art. <u>In re Pearson</u>, 494 F.2d 1399, 1403, 181 USPQ 641, 644 (CCPA 1974); <u>In re Lemin</u>, 326 F.2d 437, 140 USPQ 273 (CCPA 1964).

## Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over 4,502,715 to Lundblade.

Lundblade fails to disclose that the handle comprises a substantially planar surface that is in slidable contact with a planar surface of the keeper. Lundblade discloses that these surfaces are circular.

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Applicant is reminded that a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art. <u>In re Dailey</u>, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have planar surfaces instead of circular surface because it is a change in the shape that will not affect the contact between the handle and the keeper.

### Allowable Subject Matter

6. Claims 1,3-5,7-10 and 22 are allowed.

7. Claims 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Response to Arguments

8. Regarding applicant's arguments that Mercer discloses the invention as claimed in claims 1,20 and 22, the arguments have been fully considered and are persuasive. The rejection to claims 1,20 and 22 has been withdrawn. Claims 1,3-5 and 7-10 are also allowed has depending from claims 1 and 20.

9. The indicated allowability of claims 13-17 and 21 is withdrawn in view of the newly discovered reference(s) to Lundblade (US 4,502,715). Rejections based on the newly cited reference(s) follow.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. The patents cited further show the state of the art with respect

to latch assemblies.

11. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Carlos Lugo. The examiner phone number is (703)-

305-9747. The fax number for correspondence before a final action is (703)-872-

9326 and the fax number for correspondence after final action is (703)-872-9327.

The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can

normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the

examiner is not available, please leave a message, including the application number

and the examiner will answer the message as soon as possible.

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April 16, 2003

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